

**TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT**

TO: Mayor and Councilmembers

FROM/PHONE: David Quigley, AICP, Planning and Zoning Manager/(954) 797-1103

PREPARED BY: Lise Bazinet, Planner II

SUBJECT: Resolution

AFFECTED DISTRICT: 3

ITEM REQUEST: Schedule for Council Meeting

TITLE OF AGENDA ITEM: DELEGATION REQUEST - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA AUTHORIZING THE MAYOR AND THE TOWN ADMINISTRATOR TO ENTER INTO A "UNITY OF TITLE AGREEMENT" BETWEEN THE TOWN OF DAVIE, ZONA DEVELOPERS, LLC, AND ZONA 2 DEVELOPERS, LLC FOR THE PROJECT KNOWN AS "HIDDEN HOLLOW TOWNHOMES"; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID "UNITY OF TITLE AGREEMENT"; AND PROVIDING FOR AN EFFECTIVE DATE. (Hidden Hollow, 2 DA 2-3-10/10-68, SW Corner of 49th Street & 66th Terrace, RM-10) (tabled from May 5, 2010)

REPORT IN BRIEF: The petitioner requests the Town to enter into a "Unity of Title Agreement" to unify two properties for the project known as "Hidden Hollow Townhomes". As a result, the developer will take advantage of the utilities constructed in Phase I of the project, allowing to qualify for 14 units instead of only 12 units in phase 2, to provide a large homeowners association, and reducing the cost to its members.

PREVIOUS ACTIONS: n/a

CONCURRENCES: n/a

FISCAL IMPACT: not applicable

Has request been budgeted? n/a

RECOMMENDATION(S): Other - Staff finds the application complete and suitable for transmittal to the Town Council for further consideration. If approved, the executed "Unity of Title" must be recorded in the Public Records of Broward County.

Attachment(s): Resolution, Unity of Title, Justification Letter, Survey, Site Plan, Future Land Use Map, Zoning Map

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA AUTHORIZING THE MAYOR AND THE TOWN ADMINISTRATOR TO ENTER INTO A "UNITY OF TITLE AGREEMENT" BETWEEN THE TOWN OF DAVIE, ZONA DEVELOPERS, LLC, AND ZONA 2 DEVELOPERS, LLC FOR FOR THE PROJECT KNOWN AS "HIDDEN HOLLOW TOWNHOMES"; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID "UNITY OF TITLE AGREEMENT"; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Town Council of the Town of Davie approved the development known as “Hidden Hollow Townhomes” on January 7, 2004; and

WHEREAS, Zona Developers, LLC, as the owner of the parcel of property located in the Town specifically described in the attached “Unity of Title Agreement” as “Property 1” , developed the project known as “Hidden Hollow Townhomes”; and,

WHEREAS, Zona 2 Developers, LLC, as the owner of the parcel of property located in the Town specifically described in the attached “Unity of Title Agreement” as “Property 2”; and,

WHEREAS, Zona Developers, LLC and Zona 2 Developers, LLC desire to enter into a “Unity of Title Agreement” with the Town of Davie; and

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. The Town Council of the Town of Davie does hereby authorize the Mayor and Town Administrator to enter into this “Unity of Title” for a project within the Town of Davie, as shown in the attached exhibits.

SECTION 2. The Town Administrator and Town Attorney are authorized to make and accept non-substantive revisions to the agreement in order for the agreement to be in final, recordable form.

SECTION 3. This Agreement shall be recorded in the Public Records of Broward County.

SECTION 4. This Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2010

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2010.

This Instrument Prepared by
and Record and Return to:

Jon Jay Ferdinand, Esq.
Ferdinand & Sullivan, P.A.
441 S. State Road 7
Suite 20
Margate, FL 33068

UNITY OF TITLE

THIS AGREEMENT, made and entered into this 4th day of FEBRUARY 2010, by and between the **Town of Davie, Florida**, (the "Town") and **Zona Developers, LLC**, a Florida limited liability company and **Zona 2 Developers, LLC**, a Florida limited liability company (collectively the "Owners").

RECITALS

WHEREAS, the said **Zona Developers, LLC**, as the owner of the parcels of property located in the Town particularly described in Exhibit "A" attached hereto and made a part hereof, ("Property "1") developed the project known as "Hidden Hollow Townhomes"; and,

WHEREAS, the said **Zona 2 Developers, LLC** is the owner of the parcels of property located in the Town particularly described in Exhibit "B" attached hereto and made a part hereof, ("Property"2"); and,

WHEREAS, the Owners recognize and acknowledge that for the public health, welfare and morals, Property "1" and Property "2" should not be divided into separate parcels owned by the several owners but should be developed together as if it was one parcel of land.

NOW, THEREFORE IN CONSIDERATION of the issuance of building permits, and/or certificates of occupancy from the Town for the development of and construction of the project contemplated on Property "2", and for good and valuable considerations, receipt and sufficiency of which are hereby acknowledged, the Owners hereby agree to restrict Property "1" and "2" (hereinafter collectively the "Property"), in the following manner:

1. **Recitals.** The parties acknowledge that the foregoing recitals are true and correct and are incorporated into this Agreement as if fully set forth herein.

2. **Unity of Title.**

a. That the Property shall be considered as one plot and parcel of lands, and that no portion of said plot and parcel of land shall be sold, transferred, devised, assigned separately, except in its entirety as one plot or parcel of land, except as otherwise set forth in the approved development plans and the homeowner association documents for the Property.

b. The undersigned further agrees that this condition, restriction and limitation shall be deemed a covenant running with the land, and shall remain in full force and effect, and be binding upon the undersigned, its successors and assigns until such time as the same may be released in writing by the Town of Davie, Florida, only upon the following:

(1.) The land development regulations of the Town change such that, as applied to the Property, it is no longer necessary for Property "2" to be added to the Property "1" in order to meet the Town's requirements; or,

(2.) The owner of the Property obtains a variance or other form of site-specific relief, by whatever name called, under the Town's land development regulations as they may exist now or in the future, so that as applied to the Property, it is no longer necessary for Property "2" to be added to Property "1" in order to meet the Town's requirements.


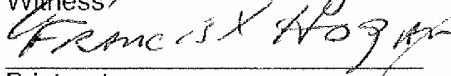

3. This Agreement will be recorded in the public records of Broward County, Florida, at the expense of the Owners, and shall be enforceable by the Town by revoking issued Certificates of Occupancy, or by injunction, or by any other method or manner available to the Town to enforce its law.

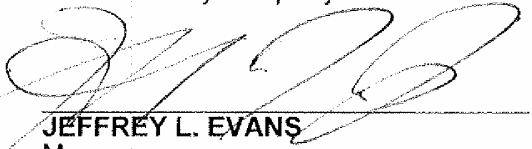
4. **Miscellaneous.**

- (a.) If the Owners or Town obtains a judgment against the other party by reason of breach of this Agreement, the prevailing party shall be entitled to recover from the losing party its reasonable attorney's fees and costs, at both the trial and appellate levels.
- (b.) This Agreement shall be interpreted in accordance with the Laws of the State of Florida.
- (c.) This Agreement sets forth the entire agreement between the Owners and the Town relating to the Unity of Title and all matters herein and supercedes all prior and contemporaneous negotiations, understandings and agreements written or oral, between the parties.

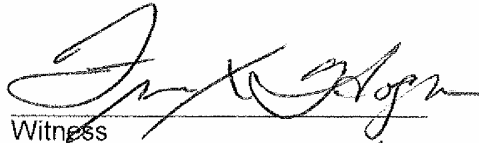
IN WITNESS WHEREOF, the parties have executed this Agreement on the respective dates under each signature.

Zona Developers, LLC, a Florida
limited liability company


Witness

Print or type name
Sara DIMARZIO
Witness

Print or type name

By: 
ITS: **JEFFREY L. EVANS**
Manager
FEB. 4th, 2010


Zona 2 Developers, LLC, a Florida
limited liability company


Witness

Francis X. Hogan
Print or type name

Sara Di Marzio
Witness

Sara Di Marzio
Print or type name

By: 
JEFFREY L. EVANS
ITS: Manager

FEB.
January 4th, 2010

Town of Davie, Florida

Witness

Print or type name

Witness

Print or type name

By: _____

ITS: _____

January _____, 2010

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 4 day of February, 2010, by **JEFFREY L. EVANS**, as Manager of **Zona Developers, LLC**, a Florida limited liability company. He is personally known to me or has produced _____ as identification.

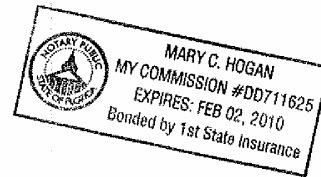
WITNESS my hand and official seal.


NOTARY PUBLIC, STATE OF FLORIDA

Mary C Hogan
Print or type name
Commission Number _____


My commission expires:

STATE OF FLORIDA
COUNTY OF BROWARD



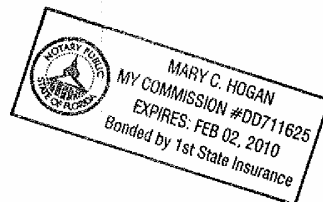
The foregoing instrument was acknowledged before me this 4 day of February, 2010, by **JEFFREY L. EVANS** as Manager of **Zona 2 Developers, LLC**, a Florida limited liability company. He is personally known to me or has produced _____ as identification.

WITNESS my hand and official seal.


NOTARY PUBLIC, STATE OF FLORIDA

Mary C Hogan
Print or type name
Commission Number _____

My commission expires:



STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this _____ day of _____, 2010, by _____ as _____ of **Town of Davie, Florida**. He is personally known to me or has produced _____ as identification.

WITNESS my hand and official seal.

NOTARY PUBLIC, STATE OF FLORIDA

Print or type name
Commission Number _____

My commission expires:

EXHIBIT "A" TO UNITY OF TITLE

LOT 34, LOT 35 LESS THE WEST 30 FEET THEREOF AND LOT 36 LESS THE WEST 30 FEET AND LESS THE NORTH 100 FEET THEREOF, ALL OF "PALM GARDEN PARK UNIT 1", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 7, PAGE 56 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

EXHIBIT "B" TO UNITY OF TITLE

LOTS 41 AND 42 LESS THE EAST 10 FEET THEREOF "PALM GARDEN PARK UNIT 1", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 7, PAGE 56 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA,

TOGETHER WITH:

THAT PORTION OF THE 15 FOOT RIGHT-OF-WAY SOUTH OF AND ADJACENT WITH LOT 42, "PALM GARDEN PARK UNIT 1", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 7, PAGE 56 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.



Zona 2 Developers LLC

8930 State Rd. 84 Suite 112

Davie, FL 33324

Tel: 954-474-6974

Fax: 954-474-4330

Town of Davie
6591 Orange Dr.
Davie, FL 33314

February 4, 2010

RE: *Justification letter for Unity of Title*

Dear Sir / Madam:

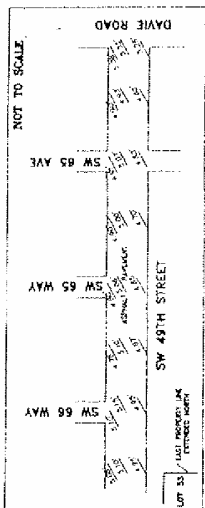
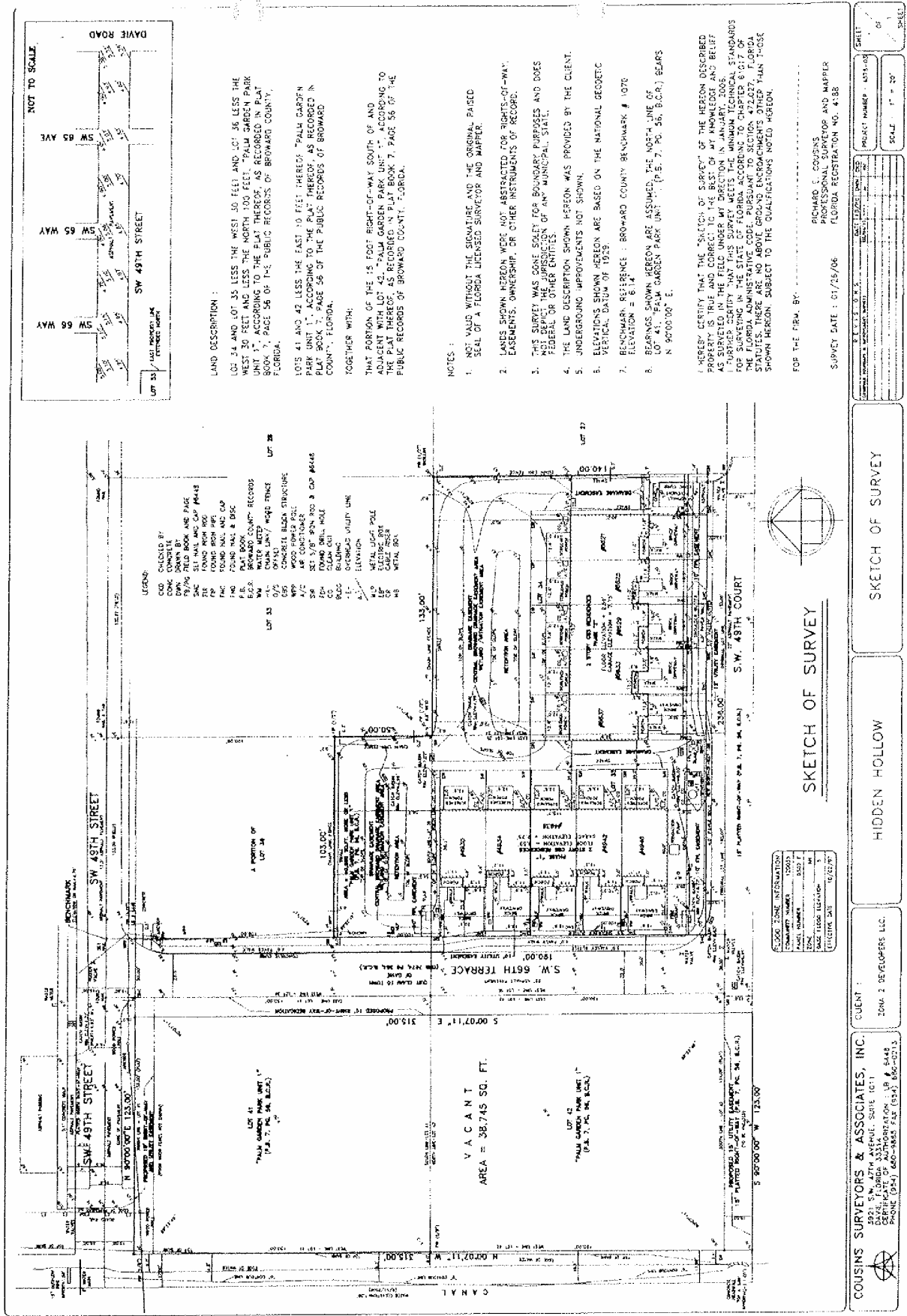
We are unifying both parcels into one development. The second parcel was not available during the planning of Hidden Hollow 1 and we have delayed phase 2 due to market conditions.

By unifying the development, we take advantage of the utilities constructed in phase 1 as well as maximizing the available density which provides a more affordable home development in Central Davie.

The unification also provides a larger association which will help spreading the services and costs with more homeowners.



Jeffrey L. Evans, RA, NCARB, Leeds Cert.
Manager



LAND DESCRIPTION :

LOT 34 AND LOT 35 LESS THE WEST 30 FEET AND LOT 36 LESS THE WEST 30 FEET AND LESS THE NORTH 100 FEET, "PALM GARDEN PARK UNIT 1", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 7, PAGE 56 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

LOTS 41 AND 42 LESS THE EAST 10 FEET THEREOF, "PALM GARDEN PARK UNIT 1", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 7, PAGE 56 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

TOGETHER WITH:

THAT PORTION OF THE 15 FOOT RIGHT-OF-WAY SOUTH OF AND ADJACENT WITH LOT 42, "PALM GARDEN PARK UNIT 1", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 7, PAGE 56 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

- NOTES :
1. NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL PAID SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
 2. LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHTS-OF-WAY, EASEMENTS, OWNERSHIP, OR OTHER INSTRUMENTS OF RECORD.
 3. THIS SURVEY WAS DONE SOLELY FOR BOUNDARY PURPOSES AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF ANY MUNICIPAL, STATE, FEDERAL OR OTHER ELEVATIONS.
 4. THE LAND DESCRIPTION SHOWN HEREON WAS PROVIDED BY THE CLIENT.
 5. UNDERGROUND IMPROVEMENTS NOT SHOWN.
 6. ELEVATIONS SHOWN HEREON ARE BASED ON THE NATIONAL GEODETIC VERTICAL DATUM OF 1929.
 7. BENCHMARK REFERENCE : BROWARD COUNTY BENCHMARK # 1070 ELEVATION = 61.4
 8. BEARINGS SHOWN HEREON ARE ASSUMED THE NORTH LINE OF LOT 41, "PALM GARDEN PARK UNIT 1" (P.E. 7, PG. 56, B.C.R.) BEARS N 90°00'00" E.

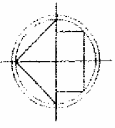
I HEREBY CERTIFY THAT THE "SKETCH OF SURVEY" OF THE HEREON DESCRIBED AND CONTERED TO BE THE BEST OF MY KNOWLEDGE AND BELIEF AS SURVEYED IN THE FIELD BY ME OR BY A LICENSED SURVEYOR AND MAPPER UNDER MY CLOSE PERSONAL SUPERVISION AND IN ACCORDANCE WITH THE MINIMUM TECHNICAL STANDARDS FOR SURVEYING IN THE STATE OF FLORIDA ACCORDING TO CHAPTER 617 OF THE FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES, AND THE MINIMUM TECHNICAL STANDARDS FOR SURVEYING SHOWN HEREON, SUBJECT TO THE QUALIFICATIONS NOTED HEREON.

FOR THE FIRM BY:

RICHARD E. COUSINS
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA REGISTRATION NO. 4188

SURVEY DATE : 01/25/06

SKETCH OF SURVEY



2000 ZONE INFORMATION	
PROPERTY NUMBER	10000
PARCEL NUMBER	0001
ZONE	RS-1
ZONE DEGREE	100
PLATTED DATE	01/27/06

COURTNEY SURVEYORS & ASSOCIATES, INC.
2001 S.W. 47TH AVENUE, SUITE 101
FORT LAUDERDALE, FL 33309
CERTIFICATE OF AUTHORIZATION : LR # 8448
PHONE (954) 680-8885 FAX (954) 680-0215

CLIENT :

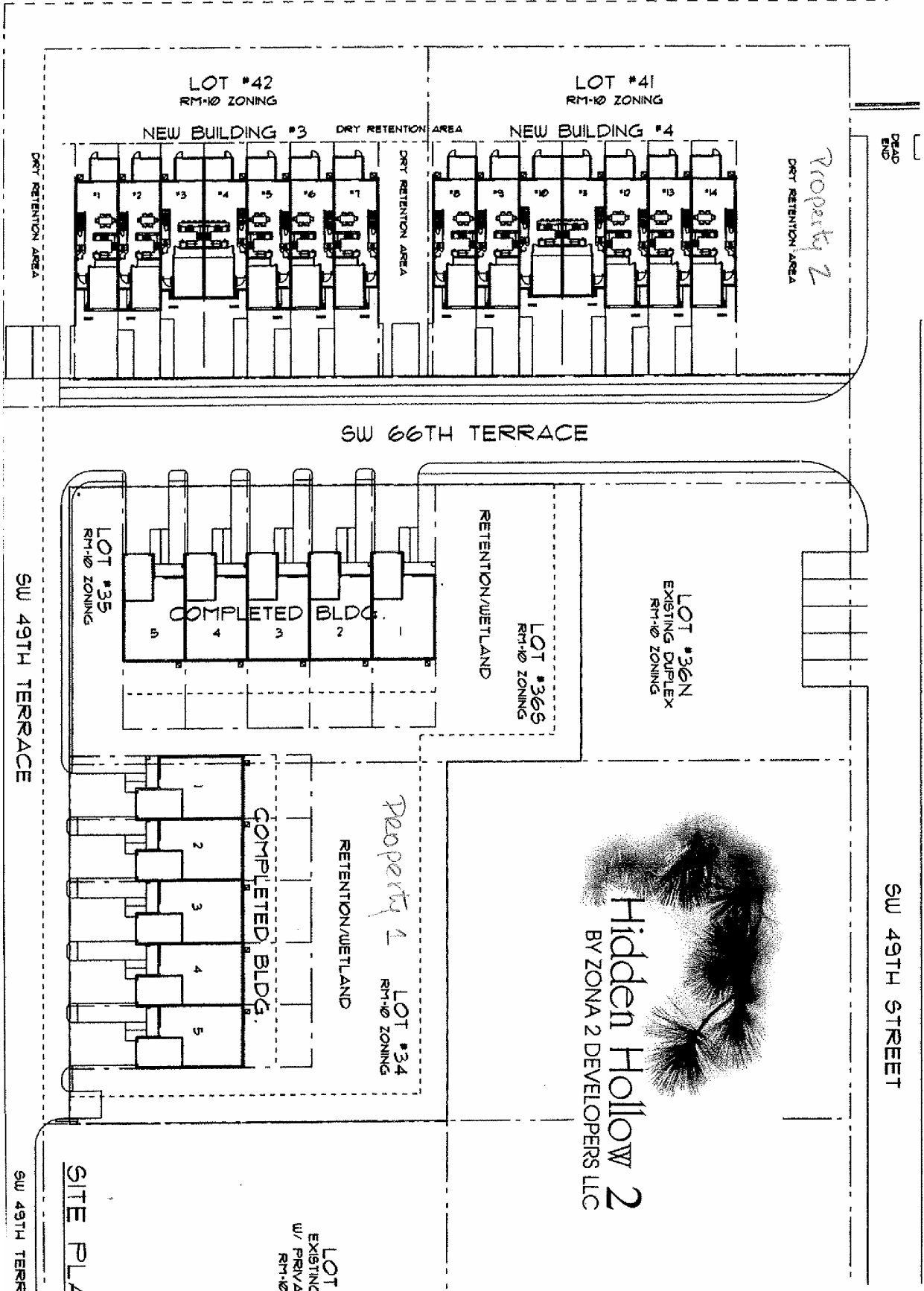
ZONE 2 DEVELOPERS LLC.

HIDDEN HOLLOW

SKETCH OF SURVEY

PROJECT NUMBER	4751-06
DATE	01/27/06
BY	R.E.C.
CHECKED BY	
SCALE	1" = 50'

EXISTING CANAL



DRY
RETENTION
AREA

Property 2
DRY RETENTION AREA

LOT #42
RM-10 ZONING

LOT #41
RM-10 ZONING

NEW BUILDING #3

NEW BUILDING #4

DRY RETENTION AREA

DRY RETENTION AREA

DRY RETENTION AREA

SW 66TH TERRACE

RETENTION/WETLAND

LOT #36N
EXISTING DUPLEX
RM-10 ZONING

LOT #36S
RM-10 ZONING

COMPLETED BLDG.

LOT #35
RM-10 ZONING

RETENTION/WETLAND

Property 1

LOT #34
RM-10 ZONING

COMPLETED BLDG.



Hidden Hollow 2
BY ZONA 2 DEVELOPERS LLC

SW 49TH STREET

SW 49TH TERRACE

SW 49TH TERR.

SITE PL 2

